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09/741,600	12/19/2000	Preston J. Hunt	81674-027 3214	4765

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EXAMINER
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ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 02/23/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/741,600

Applicant(s)

HUNT ET AL.

Examiner

Neveen Abel-Jalil

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 30-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 30-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The amendment filed on 25-November-2003 has been received and entered. Claims 16-29 have been cancelled. Claims 48-49 have been added. Therefore, claims 1-15, and 30-49 are now pending

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-15, and 30-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Logan et al. (U.S. Patent No. 6,199,076 B1).

As to claim 1, Logan et al. discloses an automatic user preference detection system, comprising:

a score calculation module to determine a score for a media content file distributed to a user by a media content file distribution source, wherein the score is calculated based on a comparison of a length in time in which the user allows the media content file to be played at a user computing device relative to a total length of the media content file (See column 12, lines 21-67, also see column 15, lines 3-20, and see column 21, lines 53-60, and column 24, lines 28-58);

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a preference determination module to determine a preference file for the user of the media content distribution source, the preference file being based on previously determined media scores for the user computing device, wherein the preference determination module scans the user computing device to determine the local media content files stored on the user computing device regardless of whether the user is currently playing the local media content file (See column 6, lines 38-67, and see column 7, lines 1-31, also see column 9, lines 31-62, and column 10, lines 7-54, also see column 15, lines 1-20);

a database to store the preference file for the user of the media content file distribution source (See column 24, lines 59-67, wherein “database” reads on “local storage”); and

a processing module to modify the preference file based on the score, wherein the processing module further selects a second media content file to distribute to the user based on the preference file (See column 11, lines 41-67, and see column 12, lines 1-20).

As to claim 2, Logan et al. discloses wherein the media content file is a music file (See column 30, line 43-59).

As to claim 3, Logan et al. discloses wherein a rate at which the processing module modifies the preference file is configurable (See column 28, lines 1-23, also see column 2, lines 55-67, also see column 8, lines 54-67, and see column 9, lines 1-30).

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As to claim 4, Logan et al. discloses wherein the system determines the length based on the user's responses made with user control point (See column 13, lines 18-47, also see column 15, lines 10-67, and see column 16, lines 1-17, also see column 21, lines 53-60).

As to claim 5, Logan et al. discloses wherein the user control point is a remote control (See column 14, lines 20-34).

As to claim 6, Logan et al. discloses wherein the media content files are sent to the user via an Internet stream (See column 5, lines 13-45).

As to claim 7, Logan et al. discloses wherein the processing module periodically selects testing media content files to distribute to the user, wherein the testing media content files are randomly selected to test whether the user's media content file preference have changed (See column 6, lines 51-67, also see column 2, lines 44-67, and see column 3, lines 1-12, also see column 9, lines 1-42, wherein "testing" reads on "additional programming").

As to claim 8, Logan et al. discloses wherein the processing module further modifies the preference file based on responses of other users having similar media preferences (See column 26, lines 21-62, also see column 42, lines 1-16).

As to claim 9, Logan et al. discloses an automatic user preference detection system, comprising:

a preference determination module to determine a preference file for the user of the media content distribution source, the preference file being based on previously determined media scores for the user computing device, wherein the preference determination module scans the user computing device to determine the local media content files stored on the user computing device regardless of whether the user is currently playing the local media content file (See column 6, lines 38-67, and see column 7, lines 1-31, also see column 9, lines 31-62, and column 10, lines 7-54, also see column 15, lines 1-20);

a database to store a media content preference file for the user of the media content distribution source (See column 8, lines 39-67);

a read/write device to read data from and write data to the database (See column 7, lines 1031, wherein “read/write device” reads on “player”); and

a processing module to modify the preference file based on the score, wherein the processing module further selects a second media content file to distribute to the user based on the preference file (See column 11, lines 41-67, and see column 12, lines 1-20).

As to claim 10, Logan et al. discloses wherein the media content file is music file (See column 30, line 43-59).

As to claim 11, Logan et al. discloses wherein a rate at which the processing module modifies the preference file is configurable (See column 28, lines 1-23, also see column 2, lines 55-67, also see column 8, lines 54-67, and see column 9, lines 1-30).

As to claim 12, Logan et al. discloses wherein the system determines the length based on the user's responses made with user control point (See column 13, lines 18-47, also see column 15, lines 10-67, and see column 16, lines 1-17, also see column 21, lines 53-60).

As to claim 13, Logan et al. discloses wherein the media content files are sent to the user via an Internet stream (See column 5, lines 13-45).

As to claim 14, Logan et al. discloses wherein the processing module periodically selects testing media content files to distribute to the user, wherein the testing media content files are randomly selected to test whether the user's media content file preference have changed (See column 6, lines 51-67, also see column 2, lines 44-67, and see column 3, lines 1-12, also see column 9, lines 1-42, wherein "testing" reads on "additional programming").

As to claim 15, Logan et al. discloses wherein the processing module further modifies the preference file based on responses of other users having similar media preferences (See column 26, lines 21-62, also see column 42, lines 1-16).

As to claim 30, Logan et al. discloses a method of automatically detecting media content preferences, comprising:

determining a score for a media content file distributed to a user by a media content file distribution source, wherein the score is calculated based on a comparison of a length in time in which the user allows the media content file to be played at a user computing device relative to a

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total length of the media content file (See column 12, lines 21-67, also see column 15, lines 3-20, and see column 21, lines 53-60, and column 24, lines 28-58);

storing a preference file for the user of the media content file distribution source, the preference file being based on previously determined media scores for the user and a determination of local media content files stored on the user computing device wherein the user computing device is scanned to determine the local media content files stored on the user computing device regardless of whether the user is currently playing the local media content file (See column 6, lines 38-67, and see column 7, lines 1-31, also see column 9, lines 31-62, and column 10, lines 7-54, also see column 15, lines 1-20, also see column 15, lines 1-20);

and modifying the preference file based on the score (See column 22, lines 48-67, and see column 23, lines 15, also see column 24, lines 33-58, wherein “score” reads on “weighing value”); and

selecting a second media content file to distribute to the user based on the preference file (See column 18, lines 21-40, also see column 20, lines 41-67).

As to claim 31, Logan et al. discloses wherein the media content file is a music file (See column 30, line 43-59).

As to claim 32, Logan et al. discloses wherein a rate at which the preference file is modified is configurable (See column 28, lines 1-23, also see column 2, lines 55-67, also see column 8, lines 54-67, and see column 9, lines 1-30).



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As to claim 33, Logan et al. discloses further including determining the length based on the user's responses made with user control point (See column 13, lines 18-47, also see column 15, lines 10-67, and see column 16, lines 1-17, also see column 21, lines 53-60).

As to claim 34, Logan et al. discloses further including sending the media content file to the user via an Internet stream (See column 5, lines 13-45).

As to claim 35, Logan et al. discloses further including periodically selecting testing media content files to distribute to the user, wherein the testing media content files are randomly selected to test whether the user's media content file preference have changed (See column 6, lines 51-67, also see column 2, lines 44-67, and see column 3, lines 1-12, also see column 9, lines 1-42, wherein "testing" reads on "additional programming").

As to claim 36, Logan et al. discloses further including modifying the preference file based on responses of other users having similar media preferences (See column 26, lines 21-62, also see column 42, lines 1-16).

As to claim 37, Logan et al. an article comprising a storage medium having stored thereon instructions that when executed by a machine result in the following:

determining a score for a media content file distributed to a user by a media content file distribution source, wherein the score is calculated based on a comparison of a length in time in which the user allows the media content file to be played at a user computing device relative to a

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total length of the media content file (See column 12, lines 21-67, also see column 15, lines 3-20, and see column 21, lines 53-60, and column 24, lines 28-58);

storing a preference file for the user of the media content file distribution source, the preference file being based on previously determined media scores for the user and a determination of local media content files stored on the user computing device wherein the user computing device is scanned to determine the local media content files stored on the user computing device regardless of whether the user is currently playing the local media content file (See column 6, lines 38-67, and see column 7, lines 1-31, also see column 9, lines 31-62, and column 10, lines 7-54); and

modifying the preference file based on the score (See column 22, lines 48-67, and see column 23, lines 15, also see column 24, lines 33-58, wherein “score” reads on “weighing value”); and

selecting a second media content file to distribute to the user based on the preference file (See column 18, lines 21-40, also see column 20, lines 41-67).

As to claim 38, Logan et al. discloses wherein the media content file is a music file (See column 30, line 43-59).

As to claim 39, Logan et al. discloses wherein a rate at which the preference file is modified is configurable (See column 28, lines 1-23, also see column 2, lines 55-67, also see column 8, lines 54-67, and see column 9, lines 1-30).

As to claim 40, Logan et al. discloses wherein the instructions further result in determining the length based on the user's responses made with user control point (See column 13, lines 18-47, also see column 15, lines 10-67, and see column 16, lines 1-17, also see column 21, lines 53-60).

As to claim 41, Logan et al. discloses wherein the instructions further result in sending the media content file to the user via an Internet stream (See column 5, lines 13-45).

As to claim 42, Logan et al. discloses wherein the instructions further result in periodically selecting testing media content files to distribute to the user, wherein the testing media content files are randomly selected to test whether the user's media content file preference have changed (See column 6, lines 51-67, also see column 2, lines 44-67, and see column 3, lines 1-12, also see column 9, lines 1-42, wherein "testing" reads on "additional programming").

As to claim 43, Logan et al. discloses wherein the instructions further result in modifying the preference file based on responses of other users having similar media preferences (See column 26, lines 21-62, also see column 42, lines 1-16).

As to claim 44, Logan et al. discloses wherein when the user allows multiple media content files to be played, in their entirety, for a predetermined length of time, the score calculation module stops calculating the score for each successive media content file (See column 12, lines 21-57, also see column 21, lines 63-60, and see column 21, lines 1-10, wherein

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“stops calculating” reads on “repeat selections...all episodes ...maybe assigned a higher importance value” indicating that once preference by user has been indicated all related content will carry that same score).

As to claim 45, Logan et al. discloses wherein when the user allows multiple media content files to be played, in their entirety, for a predetermined length of time, the score calculation module stops calculating the score for each successive media content file (See column 12, lines 21-57, also see column 21, lines 63-60, and see column 21, lines 1-10, wherein “stops calculating” reads on “repeat selections...all episodes ...maybe assigned a higher importance value” indicating that once preference by user has been indicated all related content will carry that same score).

As to claim 46, Logan et al. discloses wherein when the user allows multiple media content files to be played, in their entirety, for a predetermined length of time, no score for each successive media content file is determined (See column 12, lines 21-57, also see column 21, lines 63-60, and see column 21, lines 1-10, wherein “stops calculating” reads on “repeat selections...all episodes ...maybe assigned a higher importance value” indicating that once preference by user has been indicated all related content will carry that same score).

As to claim 47, Logan et al. discloses wherein when the user allows multiple media content files to be played, in their entirety, for a predetermined length of time, no score for each successive media content file is determined (See column 12, lines 21-57, also see column 21,

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lines 63-60, and see column 21, lines 1-10, wherein “stops calculating” reads on “repeat selections...all episodes ...maybe assigned a higher importance value” indicating that once preference by user has been indicated all related content will carry that same score).

As to claim 48, Logan et al. discloses an automatic music preference detection system, comprising:

a score calculation module to determine a score for a music file distributed to a user by a music file distribution source, wherein the score is calculated based on a comparison of a length of time in which the user allows the music file to be played at a user computing device relative to a total length of the music file (See column 12, lines 21-67, also see column 15, lines 3-20, and see column 21, lines 53-60, and column 24, lines 28-58);

a preference determination module to determine a preference file for the user of the music distribution source, the preference file being based on previously determined media scores for the user and a determination of local music files stored on the user computing device, wherein the preference determination module scans the user computing device to determine the local music files stored on the user computing device (See column 6, lines 38-67, and see column 7, lines 1-31, also see column 9, lines 31-62, and column 10, lines 7-54);

a database to store the preference file for the user of the music file distribution source (See column 24, lines 59-67, wherein “database” reads on “local storage”); and

a processing module to modify the preference file based on the score, wherein the processing module further selects a second music file to distribute to the user based on the preference file (See column 11, lines 41-67, and see column 12, lines 1-20).

As to claim 49, Logan et al. discloses wherein the music file is in an MP3 format (See column 1, lines 50-63, wherein “MP3” can be interrupted to be a well-known in the art format of “Internet Radio”).

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-15, 30-49 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

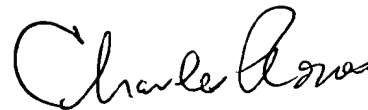
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 703-305-8114. The examiner can normally be reached on 8:00AM-4: 30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 703-305-3830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Neveen Abel-Jalil  
February 12, 2004

  
**CHARLES RONES**  
**PRIMARY EXAMINER**